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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,243	12/27/2000	Ichiro Okajima	201216US2	4687
22850	7590	03/30/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			SMITH, SHEILA B	
			ART UNIT	PAPER NUMBER
			2681	9

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/748,243	OKAJIMA ET AL.
	Examiner Sheila B. Smith	Art Unit 2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 1/7/04.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4,7-9 and 13 is/are rejected.
- 7) Claim(s) 5,6,10-12 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-4, 7-9,13 are rejected under 35 U.S.C. 102(b) as being anticipated by Tomisato et al. (U.S. Patent Number 5,822,701).

Regarding claims 1, Tomisato et al. discloses essentially all the claimed invention as set fourth in the instant application, further Tomisato et al. discloses a high-speed radio communication system. In addition Tomisato et al. discloses a communication method used when a mobile station (105) receives a signal from a base station (103a-c) in a mobile communication system (exhibited in figure 1), comprising the steps of deciding one or a plurality of mobile stations (5), (it is an ^{inherent} ~~inherit~~ feature of a mobile communication system to be comprised of a plurality of mobile stations) which can communicate with said mobile station via a predetermined wireless network (9) and which can receive a signal from said base station (11a-c) (which reads on information signal as exhibited in figure 13); said one or a plurality of mobile stations sending a signal destined for said mobile station received from said base station to said mobile station via said predetermined wireless network; and said mobile station (5) synthesizing a signal received from, said base station (which reads on column 14 lines 34-40),and said signal destined, for said mobile station received from said one or a plurality of mobile stations (it is an

Inherent
~~inherit~~ feature of a mobile communication system to be comprised of a plurality of mobile stations).

Regarding claim 2, Tomisato et al. discloses everything claimed as applied above (see claim 1), in addition Tomisato et al. discloses forming said predetermined wireless network by said mobile station and other mobile stations in said mobile communication system (which reads on information signal as exhibited in figure 13); selecting said one or a plurality of mobile stations among said other mobile stations as mobile stations for diversity reception; and said one or a plurality of mobile stations selected as used for diversity reception of said mobile station sending said signal destined for said mobile station received from said base station to said mobile station via said predetermined wireless network (which reads on column 14 lines 24-26).

Regarding claim 3, Tomisato et al. discloses everything claimed as applied above (see claim 1), in addition Tomisato et al. discloses selecting said one or a plurality of mobile stations among said other mobile stations such that communication condition between said one or a plurality of mobile stations and said base station is better than predetermined condition (which reads on information signal as exhibited in figure 13).

Regarding claim 4, Tomisato et al. discloses everything claimed as applied above (see claim 1), in addition Tomisato et al. discloses selecting said one or a plurality of mobile stations among said other mobile stations such that each level of signals received from said base station

by said one or a plurality of mobile stations is higher than a predetermined level (which reads on information signal as exhibited in figure 13).

Regarding claims 7,13, Tomisato et al. discloses everything claimed as applied above (see claim 1), in addition Tomisato et al. discloses predetermined wireless network is a mobile ad-hoc network (which reads on 9 as exhibited in figure 13).

Regarding claim 8, Tomisato et al. discloses everything claimed as applied above (see claim 8), in addition Tomisato et al. a first transceiver unit (11a-c) which transmits and receives a signal between said mobile station (5a) and said base station (3); a second transceiver unit (11a-c) which transmits and receives a signal between said mobile station (5) and a first mobile station network (9) forming control means which forms a predetermined wireless network (which reads on information signal as exhibited in figure 13) including said mobile station and said first mobile station by communicating with said first mobile (5) station by using said second transceiver unit (11a-c); and signal synthesizing means which synthesizes a signal received from said base station by said first transceiver unit and a signal destined for said mobile station (which reads on column 14 lines 34-40) received from said first mobile station (5a) by said second transceiver unit (11a-c) via said predetermined wireless network (9).

Regarding claim 9, Tomisato et al. discloses everything claimed as applied above (see claim 8), in addition Tomisato et al. discloses transfer control means which sends a signal destined for a second mobile station received by said first transceiver unit to said second mobile

station via said predetermined wireless network by said second transceiver unit (which reads on information signal as exhibited in figure 13).

Allowable Subject Matter

2. *Claims 5,6,10-12* are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Citation of Pertinent Prior Art

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Anvekar et al. (U. S. Patent Number 6,377,805) discloses maintaining data communication through neighboring mobile units during handoff;

Response to Arguments

4. Applicant's arguments filed 1/7/04 have been fully considered but they are not persuasive.
5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., forming an ad-hoc network between mobile stations and a mobile station sends a signal received from a base station to another mobile station via an ah-hoc network) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
6. Regarding applicant arguments that the Tomisato's transceivers units are at the base station, the examiner contends that base stations and mobile stations both have transceivers function subsequently some functions performed by a base station can be performed by a mobile station.
7. The examiner stands by and restates the above rejection.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (703)305-0104. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Erika Gary can be reached on 703-308-0123. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Smith
March 15, 2004


ERIKA GARY
PATENT EXAMINER